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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,497	02/21/2002	Avi Chriqui	1054AVI-US	4688
7590	03/19/2004		EXAMINER	
			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER
			1761	
DATE MAILED: 03/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/078,497	CHIRQUI, AVI
	Examiner Lien T Tran	Art Unit 1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 15 December 2003.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-13 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

Claims 1 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In the amendment filed Dec. 15, 2003, applicant amended claims 1 and 12 to include the limitation of " mixing water with said flour to form non-extruded, round mina-pasta granules". This limitation is not supported by the original disclosure. The specification does not disclose anything about forming non-extruded pasta granule. There is no disclosure that the product is non-extruded. Negative limitation can not be inserted unless it is disclosed in the specification.

The 102 rejection of claim 12 over the Hahn et al reference is hereby withdrawn.

The 103 rejection of claims 1-11 and 13 over the Hahn et al, Toh and Cuperus references is hereby withdrawn.

The rejections are withdrawn due the amendment filed on 12/15/2003.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Donnelly.

In the background section of the reference, Donnelly et al disclose a conventional method of making couscous. The method comprises the steps of blending water and semolina to obtain optimum agglomeration or granule formation, passing the granules on a conveyor belt through a steam cooking operation for about 8 minutes at a temperature of about 180 degree C, and drying the steamed granules to obtain a product having a moisture content of below 13%. The dried product is then cooled back

to ambient conditions and sifted into oversized conglomerates, fine, medium and coarse couscous and undersized granules. The drying is done in a predrying stage and main drying stage. (see col. 1.)

The conventional method disclosed on column 1 gives a mini-pasta product. The product in a non-extruded, round mini-pasta granules. While there is one difference in the conventional process in the lacking of the step of "sifting flour", determination of patentability in "product-by-process" claim is based on the product itself, even though such claim is limited and defined by process. (see *In re Thorpe* 227 USPQ 964).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Donnelly et al.

The conventional process disclosed in Donnelly et al does not teach making maftul.

. It would have been obvious to one skilled in the art to substitute flour for semolina when desiring to make other pasta product such as maftul. Applicant discloses that it is known maftul only differs from couscous in the type of flour. Thus, it would have been obvious to make maftul in the process discussed in the Donnelly reference by substituting flour for semolina.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donnelly et al in view of the recipes for pasta in the Miami Herald by Linda Cicero and Toh.

In the background section of the reference, Donnelly et al disclose a conventional method of making couscous. The method comprises the steps of blending water and

semolina to obtain optimum agglomeration or granule formation, passing the granules on a conveyor belt through a steam cooking operation for about 8 minutes at a temperature of about 180 degree C, and drying the steamed granules to obtain a product having a moisture content of below 13%. The dried product is then cooled back to ambient conditions and sifted into oversized conglomerates, fine, medium and coarse couscous and undersized granules. The drying is done in a predrying stage and main drying stage. (see col. 1.)

The convention method of making couscous in the Donnelly et al reference does not teach sifting the flour with a centrifugal no. 40 sieve, the pressure used during steaming of the pasta the pasta, the flow rate of steam and the flow rate of water during mixing, the time and temperature of the predrying and drying as claimed and the pasta is maftul.

The recipes by Linda Cicero teach to sift the flour or to use sifted flour in making pastas.

Toh teaches the preparation of rice noodles. He teaches the sifting may be carried out by a centrifugal sifter (see col. 2).

It would have been obvious to one skilled in the art to sift the flour when desiring to remove coarse particles or lump or to only retain the desirable particle sizes. The size of sieve dictates the size of particles retained. Sifting is commonly done in the art for such purpose. Sifting of the flour in making pasta is known in the art as shown by the recipes. It would have been obvious to one skilled in the art to use a centrifugal sifter as taught by Toh when a large quantity of flour is sifted. The sieve size depends

Art Unit: 1761

on the size of the particles desired and can readily be determined by one skilled in the art. The flow rate of steam and pressure are result-effective variables which can be determined by one skilled in the art through routine experimentation. One will use a pressure and flow rate which give the most effective steaming to obtain gelatinization. Steaming under pressure is quicker and one would be motivated to do so when desiring to quicken the process. As to the time and temperature of the drying, this depends on the quantity of the pasta, the final moisture content desired, and the time and temperature used. For example, it would have been obvious to use higher temperature for a shorter period of time or vice versa. The time and temperature are parameters that can be readily determined through routine experimentation to obtain the most effective drying which will give the most optimum product. It would have been obvious to one skilled in the art to substitute flour for semolina when desiring to make other pasta product such as maftul. Applicant discloses that it is known maftul only differs from couscous in the type of flour. Thus, it would have been obvious to make maftul in the process discussed in the Donnelly reference by substituting flour for semolina.

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Wednesday and Friday. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LIEN TRAN  
PRIMARY EXAMINER  
